

Uruguay

EXTRADITION

Treaty signed at Washington March 11, 1905

*Senate advice and consent to ratification, with an amendment,
March 18, 1905¹*

*Ratified by the President of the United States, with an amendment,
April 12, 1908¹*

Ratified by Uruguay May 27, 1908

Ratifications exchanged at Montevideo June 4, 1908

Entered into force June 4, 1908

Proclaimed by the President of the United States July 10, 1908

35 Stat. 2028; Treaty Series 501

The President of the United States of America and the President of the Oriental Republic of Uruguay, being animated by the desire to secure and promote the well-being and tranquillity of their respective countries by facilitating the just, prompt, and efficacious administration of justice, by preventing crimes and offenses, and by regulating the surrender of the authors thereof who may seek asylum within their respective territories, have agreed to conclude a treaty and for this purpose have appointed as their plenipotentiaries, to wit:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and

The President of the Oriental Republic of Uruguay, Mr. Eduardo Acevedo Diaz, his Envoy Extraordinary and Minister Plenipotentiary accredited to the United States of America and to Mexico;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed on the following articles:

¹ The U.S. amendment called for deletion of the words "other common-law" between the words "any" and "crime" in the third paragraph of art. III.

The text printed here is the amended text as proclaimed by the President.

ARTICLE I

The high contracting parties obligate themselves to deliver up mutually to each other, under the circumstances and conditions stipulated in the present treaty, all persons, except their own citizens, who, having been charged or sentenced for any of the crimes or offenses enumerated in Article II and committed within the territory of one of the parties, shall be found within the territory of the other.

ARTICLE II

1. Murder, comprehending assassination, parricide, infanticide, poisoning, and manslaughter, when voluntary; or the attempt to commit any of these crimes.

2. Abortion.

3. Arson.

4. Piracy, or mutiny on shipboard whenever the crew, or part thereof, shall have taken possession of the vessel by fraud or violence against the commander.

5. Forgery, or the utterance of forged papers; the forgery of official acts of government, of public authorities, or of courts of justice, or the utterance of the thing forged or falsified.

The counterfeiting or falsifying of money, whether coin or paper, or of instruments of debt created by national, State, provincial, or municipal governments, or of coupons thereof, or of bank notes, or the utterance or circulation of these; the counterfeiting, falsifying, or altering of seals of state.

6. Embezzlement of public moneys by public functionaries or depositaries, embezzlement by persons hired or salaried, to the detriment of their employers or principals; larceny; where in either class of cases the amount embezzled or stolen exceeds the sum of two hundred dollars.

7. Burglary; housebreaking; shopbreaking.

8. Robbery, defined to be the act of feloniously and forcibly taking from the person of another money, or goods, by violence or putting him in fear.

9. Rape.

10. Bigamy.

11. Kidnapping; abduction.

12. Perjury and subornation of perjury.

13. Bribery, defined to be the giving, offering, or receiving of a reward to influence one in the discharge of a legal duty.

14. Willful and unlawful destruction or obstruction of railroads which endangers human life.

Extradition is also to take place for participation in any of the crimes and offenses mentioned in this treaty, provided such participation may be punished in the United States as a felony, and in Uruguay by imprisonment at hard labor.

ARTICLE III

Political crimes and misdemeanors are expressly excepted from the present treaty.

A person whose surrender has been granted shall not in any case be either prosecuted or punished for any political crime or act connected therewith, committed previous to the extradition.

Neither shall he be prosecuted or punished for any crime² committed previous to that on which the surrender is based, unless the nation of which the demand is made so grants.

If any question shall arise as to whether a case comes within the provisions of this article, the decision of the authorities of the Government on which the demand for surrender is made, or which may have granted the extradition, shall be final.

ARTICLE IV

Where the arrest and detention of a fugitive are desired on telegraphic or other information in advance of the presentation of formal proofs, the proper course in the United States shall be for an agent of the Uruguayan Government to apply to a judge or other magistrate authorized to issue warrants of arrest in extradition cases, and present a complaint on oath as provided by the statutes of the United States.

When under the provisions of this article the arrest and detention of a fugitive are desired in Uruguay, the proper course shall be to apply to the Foreign Office, which will immediately cause the necessary steps to be taken to secure the provisional arrest and detention of the fugitive.

The provisional detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender, accompanied by the necessary evidence of his criminality, has not been produced under the stipulations of this treaty within a period of sixty days from the date of provisional arrest and detention.

ARTICLE V

Requisitions for extradition must be presented by the diplomatic agent of the country of which the request is made, or in case of his absence by the superior consular officer thereof, to the Ministry of Foreign Relations, and shall be accompanied, in the case of persons charged or under trial, by an authenticated copy of the warrant of arrest and of the evidence upon which it is based, as well as of the penal law applicable to the offense giving rise to the request, and, whenever possible, by a description of the person claimed.

With regard to sentenced persons, duly authenticated evidence of the sentence convicting them should be presented.

² For a U.S. amendment, see footnote 1, p. 979.

In the Oriental Republic of Uruguay the procedure shall be as follows:

The Ministry of Foreign Relations shall transmit the above-mentioned documents to the Superior Court of Justice, which, in turn, if it deems that the request for extradition is sufficiently well founded, shall turn it over to the judge having jurisdiction of the crime for execution. The latter functionary shall have authority to order the detention of the criminal, to take his deposition, consider his defense, and weigh the facts presented in accordance with the laws of the country; and if it turns out that the evidence presented is sufficient to warrant his imprisonment, the conditions required by the treaty having been fulfilled, he shall issue the order for his surrender, notifying the fact to the Executive, who thereupon dictates the measures necessary in order that the fugitive may be placed at the disposal of the demanding Government.

The expenses incurred in the arrest, detention, examination, and delivery of fugitives under this treaty shall be borne by the State in whose name the extradition is sought.

ARTICLE VI

All articles at the time of apprehension in the possession of the person demanded, whether being the proceeds of the crime or offense charged, or being material as evidence in making proof of the crime or offense, shall, so far as practicable in conformity with the laws of the respective countries, be given up when the extradition takes place. Nevertheless, the rights of third parties with respect to such articles shall be duly respected.

ARTICLE VII

Extradition may be refused when the penalty or right of action for the crime imputed to the person claimed shall have become barred by limitation according to the laws of the country in which he is seeking refuge.

ARTICLE VIII

If the accused or convicted party whose extradition is demanded by one of the high contracting parties in accordance with the present treaty should also be claimed by another or other governments as a result of crimes committed within their respective territories, he shall be delivered to the government of the country in which he shall have committed the gravest crime; provided that the government from which extradition is sought is not bound by treaty to give preference otherwise.

ARTICLE IX

If the person claimed should be under trial for a crime or offense committed in the country in which he is seeking refuge, his extradition shall be deferred until the trial he is undergoing is concluded, or until he suffers the

penalty imposed upon him. The same shall happen if he is serving a previous sentence at the time his extradition is demanded.

ARTICLE X

The obligation to grant extradition shall not in any case extend to the citizens of the two parties, but the executive authority of each shall have power to deliver them up, if, in its discretion, it is deemed proper to do so.

ARTICLE XI

The Government of the United States and that of Uruguay agree to notify each other of the result of the trials of all persons surrendered under this treaty.

ARTICLE XII

The provisions of the present treaty shall not apply to crimes or offenses committed prior to its date.

ARTICLE XIII

The present treaty may be denounced by either of the high contracting parties by giving notice one year in advance.

ARTICLE XIV

The present treaty shall be ratified and its ratifications exchanged at as early a day as possible.

In witness whereof, the respective Plenipotentiaries have signed the above articles, both in the English and Spanish languages, and hereunto affixed their seals.

Done in duplicate, at the City of Washington this 11th day of March, one thousand nine hundred and five.

JOHN HAY

ED° ACEVEDO DÍAZ

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